

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DONNA OHSANN,

PLAINTIFF,

V.

**CIVIL ACTION NO.:
2:07-cv-00875-WKW**

**L. V. STABLER HOSPITAL and
COMMUNITY HEALTH SYSTEMS
PROFESSIONAL SERVICES CORPORATION,**

DEFENDANTS.

OPPOSED

**PLAINTIFFS' MOTION FOR CONDITIONAL CLASS CERTIFICATION
AND
TO FACILITATE COURT-APPROVED NOTICE UNDER 29 U.S.C. §216(b)**

Plaintiffs hereby move this Court, pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C. §216(b), for an Order (1) holding that the above-captioned case will proceed as a collective action; (2) authorizing notice (in a form specified by the Court) to be delivered to all current and former hourly wage employees of the Defendant who have been employed by Defendant within the three years pre-dating the filing of this case, i.e., since 10/01/04. It is proposed that such notice (attached as Exhibit A), together with a Consent to Join (Exhibit B) shall be mailed by Plaintiffs' counsel to all such current and former employees' current or last known address or to any other address of which Plaintiff's counsel may

become aware for any such employees; Plaintiff further moves this Court to (3) order Defendant to produce to Plaintiff's counsel a computer-readable data file or paper list containing the current and/or last known addresses of all such current and former hourly wage employees so that notice in the approved form may be implemented.

Attached as Exhibit C to this Motion are the consents (collectively) of Donna Ohsann, Jessica Bennett, Vickie Crase, Rose M. Phillips-Williams, and Katie Thomas to become party plaintiffs in this action.

Plaintiff's brief in support of this motion is filed simultaneously herewith.

Dated: February 22, 2008.

Respectfully submitted,

/s/ David R. Arendall

David R. Arendall
Counsel for Plaintiff

OF COUNSEL:

ARENDALL & ASSOCIATES
2018 Morris Avenue
Birmingham, AL 35203
205.252.1550 - Office
205.252.1556 – Facsimile

CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2008, I filed a copy of the foregoing using the Court's CM/ECF system which will send a copy of the foregoing pleading to counsel for the Defendant:

David Walston, Esq.

/s/ David R. Arendall

Of Counsel

EXHIBIT A

TO

PLAINTIFFS' MOTION

FOR CONDITIONAL CLASS CERTIFICATION

AND TO

FACILITATE COURT-APPROVED NOTICE

UNDER 29 U.S.C. §216(B)

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**L. V. STABLER HOSPITAL and
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DEFENDANTS.

NOTICE OF RIGHT TO OPT-IN TO LAWSUIT

TO: ALL HOURLY-PAID PERSONS WHO WORKED OVER FORTY (40) HOURS IN ONE OR MORE WEEKS FROM OCTOBER 1, 2004 TO THE PRESENT.

RE: FAIR LABOR STANDARDS ACT LAWSUIT FILED AGAINST L. V. STABLER HOSPITAL and COMMUNITY HEALTH SYSTEMS PROFESSIONAL SERVICES CORPORATION.

I. INTRODUCTION

The purpose of this Notice is to inform you about a collective action lawsuit in which you may make a claim for damages, to advise you of how your rights may be affected by this suit, and to inform you how to make a claim, if you so desire.

II. DESCRIPTION OF LAWSUIT

On October 1, 2007, Donna Ohsann ("Plaintiff") filed a lawsuit in the United States District Court for the Middle District of Alabama against L. V. Stabler Hospital and Community Health Systems Professional Services Corporation ("Defendant") on behalf of herself and all other past and present hourly-paid employees, alleging that they are owed unpaid wages and overtime pay under the Fair Labor Standards Act, 29 U.S.C. §§ 201-219. Since filing the lawsuit four (4) other similarly-situated former employees (Plaintiffs) have joined in.

Plaintiffs allege that, during one or more weeks of their employment with Stabler, they were not

paid for all hours worked. Specifically, Plaintiffs allege that Stabler failed to pay its employees for all hours worked over forty hours in a work week at 1.5 times their regular hourly rate by (1) not providing an unpaid lunch that was in a location away from the employees' work station, and/or that was uninterrupted from work duties; (2) paying employees for only hours worked during their scheduled shift, even though they would start to work in the morning before or after clocking in, and (3) would stay at the end of the work day to complete work assignments. Plaintiffs claim that Stabler's failure to pay employees for time spent in these various activities violated the Fair Labor Standards Act by depriving employees of compensation for all hours worked, as well as overtime compensation for hours worked above forty (40) in a work week.

Stabler denies liability in this case.

III. YOUR RIGHT TO JOIN THIS LAWSUIT

If you are or have been employed by Stabler in an hourly-paid position during any period of time between October 1, 2004, and the present and you were not paid for all hours worked in excess of forty (40) in one or more work weeks at 1.5 times your regular hourly rate by not providing you an unpaid lunch that was in a location away from your work station, and that was uninterrupted from your work duties for the entire lunch; and/or if you were not paid for hours worked "off the clock", after clocking in the morning, but before work commenced, and/or after clocking out at the end of the work day, but where you stayed to complete work assignments, you may make a claim to recover unpaid wages, unpaid overtime compensation, liquidated damages, costs, and attorneys' fees in this lawsuit. It is entirely your own decision whether to join this lawsuit. You are not required to take any action unless you so desire.

IV. LEGAL EFFECT OF JOINING THIS LAWSUIT

If you choose to join this lawsuit, you will be bound by the judgment of the Court, whether it is favorable or unfavorable to you, or any settlement of this action that may later be approved by the Court is fair and reasonable. That means that, if the employees win, you may be eligible to share in the

monetary award; if the employees lose, no money will be awarded, and you will not be able to file another lawsuit regarding the disputed hours of work.

While the lawsuit is proceeding, you may be required to provide information, appear for a deposition, and/or testify in Court.

V. LEGAL EFFECT OF NOT JOINING THIS LAWSUIT

If you choose not to join this lawsuit, you will not be affected by any judgment or settlement rendered in this case, whether favorable or unfavorable to the class. That means that, if the employees win, you will not be eligible to share in the monetary award; if the employees lose, you will not be bound by that judgment. If you choose not to join this lawsuit, you retain any rights, if any, that you may have under the Fair Labor Standards Act, and you are free to file your own lawsuit.

Be aware that the time limit for acting on any wage claims you may have under the Fair Labor Standards Act may continue to run and may cause your claim to be barred.

VI. LEGAL REPRESENTATION IF YOU JOIN THIS LAWSUIT

The attorneys for the Plaintiff and the proposed opt-in class are:

David R. Arendall, Esq., and Allen D. Arnold, Esq. of the firm of **Arendall & Associates**.

Their address, telephone number, fax number, and web address are:

2018 Morris Avenue, Third Floor
Birmingham, AL 35203
Phone: (205) 252-1550
Fax: (205) 252-1556
Web address: www.arendalllaw.com.

If you choose to join this lawsuit, Arendall & Associates will represent you. You will not have to pay these lawyers for their services, and the attorney fee agreement is contained on the back of the Consent to Join form.

VII. HOW TO JOIN THIS LAWSUIT

If you wish to join this lawsuit, you must complete, sign, and mail the enclosed Consent to Become Party Plaintiff form in the enclosed envelope to the following address:

Arendall & Associates
2018 Morris Avenue, Third Floor
Birmingham, AL 35203

Your signed Consent form must be received by Arendall & Associates by _____, to be eligible to participate in this case. If you wish to join this lawsuit, return the signed Consent form as soon as possible to attempt to preserve any present legal right you may have to participate in this lawsuit. Stabler contends that a statute of limitations is continuing to run on any claim that you may wish to assert, and your rights to any recovery may be affected by any delay on your part in returning the enclosed form.

VIII. NO OPINION EXPRESSED AS TO MERITS OF LAWSUIT

This Notice is for the sole purpose of providing current and former Stabler employees with information concerning their right to join this lawsuit. Although this Notice and its contents have been authorized by the Court, the Court takes no position regarding the merits of Plaintiff's claims or Stabler's defenses.

IX. NO RETALIATION OR DISCRIMINATION PERMITTED

The Fair Labor Standards Act **prohibits** employers from discriminating or retaliating against any person who files a lawsuit or complaint for overtime compensation, testifies in a lawsuit under the Fair Labor Standards Act, or otherwise participates in a proceeding to recover overtime compensation under the Fair Labor Standards Act.

EXHIBIT B

TO

PLAINTIFFS' MOTION

FOR CONDITIONAL CLASS CERTIFICATION

AND TO

FACILITATE COURT-APPROVED NOTICE

UNDER 29 U.S.C. §216(B)

CONSENT TO BECOME A PARTY PLAINTIFF

I, _____, a current or former employee of L. V. Stabler Hospital hereby consent to become a party plaintiff in a lawsuit against L. V. Stabler Hospital, to collect back pay, liquidated damages, minimum wage and/or overtime compensation under the Fair Labor Standards Act, §§ 201 *et seq.*, and/or any other applicable federal or state statute(s) already filed or to be filed against L. V. Stabler Hospital.

By signing this Consent, I agree to the terms and conditions of the Attorney Fee Agreement on the reverse of this page.

Dated: _____.

Signature

Print Name

Address (Required)

City, State and Zip Code

Day Phone no. – Include area code (Required)

Evening phone no. – Include area code (Required)

Mobile Phone – include area code

E-mail Address

ATTORNEY FEE AGREEMENT

The Client hereby retains and employs Arendall Law Firm, Inc., d/b/a Arendall & Associates (Attorney) to evaluate, investigate and/or prosecute the claim of the undersigned for the recovery of damages for violation of the Federal Labor Standards Act while Client was employed at L. V. Stabler Hospital.

In payment for services rendered in this undertaking, the Client hereby assigns and transfers to said Attorney and agrees to pay said Attorney the following amounts according to the terms specified:

1. Client shall receive all funds negotiated or awarded to be due to him/her.
2. Attorneys are asserting a claim under a federal statute that allows for recovery of attorney's fees. Any attorney's fees recovered by judgment or by negotiated agreement will be the property of Attorneys. Client understands that the negotiated attorney fee may exceed sums due Client herein.
3. In the event this matter is brought to trial, and the Client does not prevail on this matter, the Client will owe said Attorney nothing for his services rendered in this action.

It is understood that Client's claim(s) may be settled either before or after suit is filed, or before or after a trial of the case. It is further understood that no dismissal or settlement of the claim(s) will be made without the consent of Client.

If, after investigation, it appears that Client's claim(s) do not appear to have merit, Attorney shall have the right to terminate this agreement. At the discretion of the Attorney, he or she may withdraw.

No promise or representation has been made by Attorney as to the outcome of the claim(s) or litigation, or as to what sums of money, if any, Client may be entitled to recover in this case. Attorney has advised Client that he or she is not in a position to offer tax advice and that Attorney makes no representation regarding the tax treatment of any payments Client may receive. Client understands that Attorney has not been retained to provide any opinion or advice on tax issues. Client understands that the tax treatment of any payment he/she may receive must be determined by him/her and his/her accountant or tax counsel and, of course, by the IRS.

IMPORTANT: IT IS YOUR RESPONSIBILITY TO STAY IN TOUCH WITH US WITH ANY CHANGE OR PHONE NUMBER OR ADDRESS. BY SIGNING THIS CONTRACT YOU HAVE AGREED TO KEEP OUR FILE UPDATED WITH YOUR CORRECT ADDRESS AND PHONE NUMBER. IF YOU FAIL TO DO SO, WE, AS YOUR ATTORNEYS, HAVE YOUR PERMISSION TO NOT FILE SUIT WITHOUT PREPAYMENT OF FILING FEES, EVEN IF BY FAILING TO DO SO YOUR CLAIMS ARE STATUTORY BARRED FOREVER.

EXHIBIT C

TO

PLAINTIFFS' MOTION

FOR CONDITIONAL CLASS CERTIFICATION

AND TO

FACILITATE COURT-APPROVED NOTICE

UNDER 29 U.S.C. §216(B)

CONSENT TO BECOME A PARTY PLAINTIFF

I, Jessica Bennett, a current or former employee of
L.V. Stabler, hereby consent to become a party plaintiff in a lawsuit against
L.V. Stabler, alleging violations of the Fair Labor Standards Act, §§ 201 *et seq.*

By signing this Consent, I agree to the terms and conditions of the Attorney Fee Agreement on the
reverse of this page.

Dated: 6/14/06

Jessica Bennett
Signature

Jessica Bennett
Print Name

2109 Luverne Hwy
Address (Required)

Greenville AL 36037
City, State and Zip Code

2572271233
Day Phone no. – Include area code (Required)

Mobile Phone – include area code

3343820479
Evening phone no. – Include area code (Required)

hoopsj1b21@hotmail.com
E-mail Address

CONSENT TO BECOME A PARTY PLAINTIFF

I, Vickie CRASE, a woman of legal capacity of
L.V. Stabler Hosp, have consent to having a fully paid for a lawsuit against
_____.

I, signing this Consent, I do so with full understanding of the nature of the Agreement and
its consequences.

Dated Jan 24 08.

Vickie Crase
Signed

Vickie Crase
Printed

2601 Patricia Drive Lot 34
Address

Pensacola FL 32526
City, State and Zip Code

850 497-6508
Day Phone - include area code

850 918 9362
Mobile Phone - include area code

850 497-6508
Evening phone - include area code, if available

ermom57@yahoo.com
E-mail Address

CONSENT TO BECOME A PARTY PLAINTIFF

I, ROSE M. PHILLIPS-Williams, a current or former employee of
L.V. STABLER hereby consent to become a party plaintiff in a lawsuit
against L.V. STABLER, alleging violations of the Fair Labor Standards Act, §§
201 et seq.

By signing this Consent, I agree to the terms and conditions of the Attorney Fee Agreement on the
reverse of this page.

Dated: Feb 6, 2008

Rose M. Phillips-Williams
Signature

ROSE M. PHILLIPS-Williams
Print Name

473 OLD STAGE RD
Address (Required)

GREENVILLE AL 36037
City, State and Zip Code

334-328-2434
Day Phone no. - Include area code (Required)

Mobile Phone - include area code

334-328-2434
Evening phone no. - Include area code (Required)

ROSETV1@YAHOO.COM
E-mail Address

CONSENT TO BECOME A PARTY PLAINTIFF

I, Katie Thomas, a current or former employee of
LV Stabler, hereby consent to become a party plaintiff in a lawsuit against
LV Stabler, alleging violations of the Fair Labor Standards Act, §§ 201 *et seq.*

By signing this Consent, I agree to the terms and conditions of the Attorney Fee Agreement on the reverse of this page.

Dated: 6/14/07.

Katie Thomas
Signature

Katie Thomas
Print Name

227 New Searcy Rd
Address (Required)

Greenville, AL 36037
City, State and Zip Code

(334) 590-2400
Day Phone no. - Include area code (Required)

(334) 590-2400
Mobile Phone - include area code

(334) 383-1319
Evening phone no. - Include area code (Required)

E-mail Address